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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1443/LA3/71. *Dated, Trivandrum, 15th March 1971.*

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1971.

Fourth Kerala Legislative Assembly
Bill No. 33

THE KERALA LAND REFORMS (AMENDMENT) BILL, 1971

A

BILL

further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS it is expedient further to amend the Kerala Land Reforms Act, 1963, for the purposes hereinafter appearing;

BE it enacted in the Twenty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—This Act may be called the Kerala Land Reforms (Amendment) Act, 1971.

(2) Clause (b) of section 2, sections 3, 4 and 8, clauses (a) and (b) of section 10, section 12, clause (c) of section 13, sections 14 to 18 (both inclusive) and sections 20 to 22 (both inclusive) shall be deemed to have come into force on the 1st day of January, 1970 and the remaining provisions of this Act shall come into force at once.

2. *Amendment of section* 2.—In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act),—

(a) in clause (25), after *Explanation VI*, the following *Explanation* shall be inserted, namely,—

"*Explanation VII.*—For the removal of doubts it is hereby declared that a person occupying a homestead of hut situate on a land held or owned by the Government of Kerala or the Government of any other State in India or the Government of India shall not be deemed to be a kudikidappukaran;";

(b) in the *Explanation* to clause (33B), for the portion beginning with the words "but shall be deemed" and ending with the words "before such inclusion;", the following shall be substituted, namely,—

"but shall be deemed—

(i) where such area was within the limits of a local authority immediately before such inclusion, to continue within the limits of that local authority; and

(ii) where such area was not within the limits of a local authority immediately before such inclusion, to be within the limits of a panchayat;".

3. *Amendment of section 65.*—In section 65 of the principal Act, in sub-section (1), after the proviso, the following *Explanation* shall be inserted, namely,—

"*Explanation.*—In this sub-section, the expression "institution of a public nature" includes a public trust and a wakf.".

4. *Amendment of section 72E.*—In section 72E of the principal Act,—

(a) in sub-section (1), for the words "in the Gazette and also in such other manner", the words "in such manner" shall be substituted;

(b) in sub-section (3), for the words, brackets and figure "in the Gazette under sub-section (1)", the words, brackets and figure "in the manner referred to in sub-section (1)" shall be substituted;

(c) in sub-section (5),—

(i) in clause (h), the word "and" at the end shall be omitted;

(ii) after clause (h), the following clause shall be inserted, namely,—

"(hh) where the land owner or intermediary is a religious, charitable or educational institution of a public nature and is entitled to annuity instead of compensation, the amount of such annuity; and".

5. *Amendment of section 72N.*—In section 72N of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A). An application from a religious, charitable or educational institution of a public nature for annuity pending or deemed to be pending on the date notified by the Government under sub-section (1) of section 72 shall, on the date of publication of the Kerala Land Reforms (Amendment) Act, 1971, in the Gazette abate, and where any such application has been made after the date of such publication, that application shall abate on the date on which it is received by the Land Board.

(1B). For the removal of doubts it is hereby clarified that the annuity payable to a religious, charitable or educational institution of a public nature whose application abates under sub-section (1A) shall be determined by the Land Tribunal under section 72F and that section 66 will not apply for such determination.".

6. *Amendment of section 75.*—In section 75 of the principal Act,—

(a) in sub-section (3A), for the words "cost of acquisition of land", the words "amount of compensation payable for acquisition of land" shall be substituted;

(b) after sub-section (3B), the following sub-section shall be inserted, namely:—

"(3BB) Where the kudikidappukaran does not shift to the land acquired in pursuance of sub-section (3B) within a period of fifteen days from the date of service on him of the requisition under that sub-section, the officer referred to in that sub-section shall cause him to be evicted from the existing kudikidappu.";

(c) for sub-section (3D), the following sub-section shall be substituted, namely:—

"(3D) Where the kudikidappukaran shifts as required under sub-section (3B) or under sub-section (3BB), he shall be entitled to the ownership and possession of the land to which he shifts or is bound to shift, as the case may be, and also to the registry of such land in his name.";

(d) in sub-section (3E), for the words "cost of the acquisition", the words "amount of compensation payable for the acquisition" shall be substituted.

7. *Substitution of new section for section 77.*—For section 77 of the principal Act, the following section shall be substituted, namely:—

"77. *Procedure to enforce shifting of kudikidappu in certain cases.*—(1) If the kudikidappukaran does not comply with the requisition made under sub-section (2) or sub-section (4) of section 75 by the person in possession of the land to shift to a new site, such person may apply to the Land Tribunal having jurisdiction to entertain an application under section 80B in respect of the kudikidappu to be shifted, to enforce compliance with such requisition:

Provided that no application under this sub-section shall be made without giving the kudikidappukaran one month's notice by registered post.

(2) The Land Tribunal, after such inquiry as it deems fit, and on being satisfied that the applicant has complied with all the conditions mentioned in sub-section (2) or sub-section (4), as the case may be, of section 75, may pass an order requiring the kudikidappukaran to shift the kudikidappu before such date as may be specified in the order:

Provided that no such order shall be passed in any case where a certificate of purchase has been issued under section 80C in respect of the kudikidappu.

(3) If the kudikidappukaran does not shift the kudikidappu before the date specified in the order under sub-section (2), the Land Tribunal shall cause the kudikidappukaran to be evicted from the kudikidappu.".

8. *Amendment of section 80A.*—In section 80A of the principal Act,—

(a) in sub-section (4), the following further proviso shall be added, namely:—

"Provided also that where any person in possession of any land in which there is a kudikidappu or more than one kudikidappu, has voluntarily transferred such land on or after the 1st day of July, 1969 and before the 1st day of January, 1970 or voluntarily transfers such land on or after the 1st day of January, 1970, the kudikidappukaran or each of the kudikidappukars shall be entitled to purchase such extent of land as he would have been entitled to purchase if such transfer had not taken place.";

(b) after sub-section (8), the following sub-section shall be inserted, namely:—

"(8A) Notwithstanding anything contained in sub-sections (7) and (8), the kudikidappukaran shall not be liable to pay his share of the purchase price in cases where the person in possession of the land in which the kudikidappu is situate or, where the person in possession of the land is holding such land under a landlord or more than one landlords and the right, title and interest of such landlord or landlords have not vested in the Government under section 72, the person in possession of such land and such landlord or landlords agrees or agree in writing that the kudikidappukaran need not pay his share of the purchase price.".

9. *Amendment of section 80B.*—In section 80B of the principal Act, in sub-section (3), the following proviso shall be added, namely:—

"Provided that where an application under sub-section (1) of section 77 in respect of the kudikidappu is pending, the Land Tribunal shall not pass any order under this sub-section before the disposal of that application.".

10. *Amendment of section 80C.*—In section 80C of the principal Act,—

(a) in sub-section (1), for the words, brackets, figures and letter "The kudikidappukaran shall deposit the first instalment of the purchase price payable by him under sub-section (8) of section 80A", the words "Where the kudikidappukaran is liable to pay his share of the purchase price, he shall deposit the first instalment thereof" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) On the deposit of the first instalment of the purchase price as provided in sub-section (1) or on the deposit of the purchase

price in a lump as provided in sub-section (8) of section 80A or, where the kudikidappukaran is not liable to pay his share of the purchase price or, where no purchase price is due from the kudikidappukaran after set off as provided in sub-section (4) of section 80B, after the order of the Land Tribunal under sub-section (3) of section 80B has become final, the Land Tribunal shall issue a certificate of purchase in such form and containing such particulars as may be prescribed and thereupon the right, title and interest of the landowner, the intermediaries, if any, and the person in possession where he is not the landowner, in respect of the land allowed to be purchased, shall vest in the kudikidappukaran free from all encumbrances with effect from the date of such deposit or, as the case may be, the date on which the order of the Land Tribunal under the said sub-section (3) has become final.",

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Where the certificate of purchase issued to the kudikidappukaran is in respect of another portion of the land and the kudikidappukaran does not vacate the existing kudikidappu within a reasonable time after the issue of such certificate, the Land Tribunal shall cause him to be evicted from the existing kudikidappu."

11. *Amendment of section 81.*—In section 81 of the principal Act, in clause (a) of sub-section (1), after *Explanation II*, the following Explanation shall be inserted, namely:—

"*Explanation III.*—For the purposes of this clause "other authority" shall include a corporation owned or controlled by the Government of Kerala or the Government of any other State in India or the Government of India;".

12. *Amendment of section 82.*—In section 82 of the principal Act, for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

"(3) In calculating the extent of land owned or held by a family or an adult unmarried person, the shares of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held—

(a) by one or more of such members jointly with any person or persons other than a member or members of such family or by such adult unmarried person jointly with any other person or persons; or

(b) by a co-operative society or a joint family, shall be taken into account.

Explanation.—For the purposes of this sub-section, the share of a member of a family or an adult unmarried person in the lands owned or held jointly or by a cooperative society or a joint family shall be deemed to be the extent of land which would be allotted to such member or person had such land been divided or partitioned, as the case may be, on the date notified under section 83.

(4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified in that Schedule or into a plantation, the extent of land liable to be surrendered by a person owning or holding such land shall be determined without taking into consideration such conversion.".

13. *Amendment of section 85.*—In section 85 of the principal Act,—

(a) in sub-section (2), in *Explanation IV*, after the words "State Small Industries Corporation", the words and figures "or to a Scheduled bank as defined in the Reserve Bank of India Act, 1934, receiving assistance from the Agricultural Re-finance Corporation established under the Agricultural Refinance Corporation Act, 1963", shall be inserted;

(b) in sub-section (6),—

(i) in the opening portion, the words "as far as practicable," shall be omitted;

(ii) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted, and before that proviso, the following proviso shall be inserted, namely:—

"Provided that the Land Board shall not be bound to accept such choice if—

(A) it has reason to believe that the person whose land is indicated to be surrendered has no good title to that land; or

(B) the land indicated to be surrendered is not accessible; or

(C) it considers that for any other reason to be recorded in writing that it is not practicable to accept the choice or to take possession of the land.";

(c) after sub-section (8) and before the *Explanation* thereunder, the following sub-section shall be inserted, namely:—

"(9) The Land Board may, if it is satisfied that the extent of lands surrendered by, or assumed from, a person under section 86 is less than the extent of lands which he was liable to surrender under the provisions of this Act or that the lands surrendered by, or assumed from, a person were not lawfully owned or held by

him, set aside its order under sub-section (5) or sub-section (7), as the case may be, in respect of such lands and shall proceed afresh under that sub-section;

Provided that the Land Board shall not set aside any order under this sub-section without giving the persons affected thereby an opportunity of being heard:

Provided further that the Land Board shall not initiate any proceedings under this sub-section after the expiry of two years from the date on which the order sought to be set aside has become final.".

14. *Amendment of section 86.*—In section 86 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in the foregoing provisions of this Act, where any land is indicated in the statement under sub-section (2) of section 85 as land proposed to be surrendered, the Land Board may, pending determination under sub-section (5) of section 85 of the extent and identity of the land to be surrendered by the person who has filed the statement or on whose behalf the statement has been filed, take possession of such land if it is satisfied that such person is in possession of the land and has legal title to such possession and that the land is fit for surrender and thereupon the provisions of sub-section (4) shall, so far as may be, apply in respect of such land.".

15. *Amendment of section 88.*—In section 88 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) The compensation payable to an owner for the surrender or assumption of ownership and possession of land shall be an amount calculated at the rates specified in Schedule IV.

(3) The compensation payable to the landowner, intermediary or cultivating tenant for the surrender, assumption, vesting in the Government or extinguishment of their rights shall be the portion of an amount calculated at the rates specified in Schedule IV that will fall to his share if such amount were apportioned among the landowner, cultivating tenant and intermediary, if any, in respect of the land according to the following provisions:—

(i) ninety per cent of the portion of the compensation for the site of any homestead or hut in the occupation of a kudikidappukaran shall be deducted from the total amount of compensation;

(ii) the balance remaining after deducting the amount referred to in clause (i) shall be apportioned among the landowner,

the intermediaries and the cultivating tenant in proportion to the profits derivable by them from the land immediately before the surrender, assumption or vesting in the Government, as the case may be.

Explanation.—"Profits derivable from the land and" shall be deemed to be equal to (i) in the case of a landowner, the rent which he was entitled to get immediately before the 1st day of January, 1970, from the tenant holding immediately under him; (ii) in the case of an intermediary, the difference between the rent which he was entitled to get immediately before the 1st day of January, 1970, from his tenant and the rent for which he was liable to his landlord immediately before that day; and (iii) in the case of a cultivating tenant, the difference between the net income and the rent which he was liable to pay immediately before the said day.".

16. *Amendment of section 96.*—In section 96 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) The Land Board shall assign on registry, subject to such conditions and restrictions as may be prescribed, the lands vested in the Government under section 86 or section 87, as specified below:

(i) the lands in which there are kudikidappukars shall be assigned to such kudikidappukars;

(ii) the remaining lands shall be assigned to—

(a) landless agricultural labourers; and

(b) small-holders and other landlords who are not entitled to resume any land:

Provided that eighty-seven and a half per cent of the area of the lands referred to in clause (ii) available for assignment in a taluk shall, as far as practicable, be assigned to landless agricultural labourers of which one-half shall be assigned, as far as practicable, to landless agricultural labourers belonging to the Scheduled Castes or the Scheduled Tribes.

Explanation.—For the purposes of this section, a kudikidappukaran or the tenant of a kudiyiruppu shall be deemed to be a landless agricultural labourer if he does not possess any other land.

(1A) Notwithstanding anything contained in sub-section (1), the Land Board may, if it considers that any land vested in the Government under section 86 or section 87 is required for any public purpose, reserve such land for such purpose.".

17. *Amendment of section 97.*—In section 97 of the principal Act, in sub-section (1), for the words "fifty-five per cent of the market

value of the land and improvements, if any, thereon", the words and figures "the amount of compensation payable in respect of that land under section 88" shall be substituted.

18. *Amendment of section 98.*—In section 98 of the principal Act, for the words and figures "section 94 and 96", the word and figures "section 96" shall be substituted.

19. *Amendment of section 109.*—In section 109 of the principal Act, in clause (a) of sub-section (4), for the words "cost of acquisition", the words "amount of compensation payable for acquisitions" shall be substituted.

20. *Amendment of section 112.*—In section 112 of the principal Act,—

(a) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) Notwithstanding anything contained in sub-section (2) and (5), where the right, title and interest of the landowner and the intermediaries in respect of the land acquired have vested in the Government under section 72,—

(a) the compensation for any building or other improvements belonging to such landowner and intermediaries shall be awarded to the Government; and

(b) the balance remaining after deducting the compensation referred to in clause (a) and the value of the land occupied by the homestead or hut, if any, shall be apportioned between the cultivating tenant and the Government in proportion to the profits derivable by them from the land.

Explanation.—"Profits derivable from the land" shall be deemed to be equal to—

(i) in the case of the cultivating tenant, the difference between the net income immediately before the acquisition and the rent which he was liable to pay immediately before the date on which the right, title and interest of the landowner and the intermediaries have vested in the Government; and

(ii) in the case of the Government, such rent.";

(b) in sub-section (6), for the brackets, figures and word "(3) and (5)", the brackets, figures, word and letter "(3), (5) and (5A)" shall be substituted.

21. *Insertion of New Schedule IV.*—After Schedule III to the Principal Act, the following Schedule shall be inserted, namely:—

"SCHEDULE—IV

[*See* Section 88 (2)]

RATES OF COMPENSATION

PART I

Lands other than nilam

Class of land	*Rate per acre* Rs.
Trivandrum District	
1. Garden land:	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,300
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	500
4. Land not falling under any of the above classes	800
Quilon District	
1. Garden land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,300
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	800
Alleppey District	
1. Garden land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,000
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	500
4. Land not falling under any of the above classes	800
Kottayam District	
1. Garden Land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,300
2. Dry land principally cultivated with cashew	1,000
3. Palliya lland	700
4. Land not falling under any of the above classes	1,000

Class of land	*Rate per acre*

Ernakulam District

1. Garden Land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,300
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	800

Trichur District

1. Garden Land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	1,300
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	700

Palghat District

1. Garden Land :	
(i) Land used principally for growing coconut trees	1,600
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	700
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	500
4. Land not falling under any of the above classes	400

Malappuram District

1. Garden Land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	700
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	400

Kozhikode District

1. Garden Land :	
(i) Land used principally for growing coconut trees	2,000
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	700
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	400

Class of land	*Rate per acre*
Cannanore District	
1. Garden Land :	
(i) Land used principally for growing coconut trees	1,600
(ii) Land used principally for growing arecanut trees	4,000
(iii) Land used principally for growing peppervines	700
2. Dry land principally cultivated with cashew	1,000
3. Palliyal land	700
4. Land not falling under any of the above classes	400

PART II

Nilams

Sl. No.	*Taluk*	*Rate per acre of double crop nilam*	*Rate per acre of single crop nilam*
(1)	(2)	(3)	(4)
		Rs.	Rs.
1	Neyyattinkara Trivandrum Nedumangad Chirayinkil	2,000	1,000
2	Quilon Kottarakara Kunnathur Pathanapuram Pathanamthitta	2,000	1,000
3	Karunagappally Karthigappally Mavelikkara	2,000	1,000
4	Chengannur Thiruvalla Kuttanad	2,000	1,200
5	Ambalapuzha Shertallai	1,300	800
6	Changanacherry Kanjirappally Peermade Kottayam Vaikom Meenachil Devicolam Udumbanchola	2,000	1,000

Sl. No.	*Taluk*	*Rate per acre of double crop nilam*	*Rate per acre of single crop nilam*
(1)	(2)	(3)	(4)
		Rs.	Rs.
7	Thodupuzha Moovattupuzha Cochin Kanayannur	2,000	1,000
8	Kunnathunad Parur Alwaye	1,600	900
9	Cranganur Mukundapuram Trichur Talappally	1,600	1,000
10	Chittur Alathur Palghat	2,700	1,300
11	Ottappalam Perinthalmanna Mannarghat Ernad	2,000	1,000
12	Chowghat Ponnani Tirur	1,600	900
13	Kozhikode Quilandy Badagara	1,300	700
14	South Wynad North Wynad	1,600	900
15	Tellicherry Cannanore Taliparamba Hosdrug Kasargod	1,600	900

22. *Amendment of the Kerala Land Reforms (Amendment) Act* 1969.—In Section 108 of the Kerala Land Reforms (Amendment) Act, 1969 (35 of 1969), for sub-section (3), the following sub-section shall be substituted, namely.—

"(3) If in any suit, application, appeal, revision, review, proceedings in execution of a decree or other proceedings pending at the commencement of this Section before any court, tribunal, officer or other authority, any party claims any benefit, right or any remedy conferred by any of the provisions

of the Principal Act, such suit, application, appeal, revision, review, proceedings in execution or other proceedings shall be disposed of in accordance with the provisions of the Principal Act as amended by this Act.".

23. *Transitory provisions.*—(1) Any suit instituted against a kudikidappukaran under Section 77 of the principal Act and pending before any court at the commencement of this Section shall be transferred to the Land Tribunal having jurisdiction and such Land Tribunal shall dispose of such suit as if it is an application under Section 77 of the principal Act as amended by this Act.

(2) Where a decree has been passed by any court before the commencement of this Section in a suit instituted under Section 77 of the principal Act for shifting a kudikidappukaran from his kudikidappu, and an application under Section 80B of the principal Act for purchase of such kudikidappu is pending before any Land Tribunal, the Land Tribunal shall dispose of such application subject to the terms of that decree.

24. *Repeal and saving.*—(1) The Kerala Land Reforms (Amendment) Ordinance, 1971 (4 of 1971), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

On a review of the progress in the implementation of the Kerala Land Reforms Act, 1963, as amended by the Kerala Land Reforms (Amendment) Act, 1969, it was considered necessary that certain amendments should be made in the Act for the speedy and smooth implementation of its provisions. As the Legislative Assembly was not in session, an Ordinance for the purpose was promulgated on the 1st day of February, 1971 and published in the Gazette as Ordinance No. 4 of 1971. The Bill seeks to replace the Ordinance by an Act of the Legislature. Opportunity has also been taken to make certain other amendments which were found necessary for the implementation of the Act.

2. The Notes on clauses explain in detail the various provisions of the Bill.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

BABY JOHN